

### **REMARKS/ARGUMENTS**

The present amendment is in response to the Office Action dated October 3, 2008.

Claims 1-24 are pending in the present application. Claims 1-24 have been currently amended to correct grammatical errors. No new matter is believed to have been introduced by the amended claims. The amended claims are based on original claims 1-24.

The specification has been amended to correct the informalities on pages 16, 17, 18 and 20, as noted by the Examiner in the Office Action dated October 3, 2008.

#### **Claim Rejections under 35 U.S.C. § 102(b)**

The Examiner rejected Claims 1-5, 7-17 and 19-24, under 35 U.S.C. § 102(b), as anticipated by U.S. Patent 5,811,379 (hereinafter the '379 patent), alone, and, alternatively, as evidenced by U.S. Patent 4,704,491 (hereinafter the '491 patent). Applicants respectfully traverse for the following reasons.

To support an anticipation rejection based on inherency, the Examiner must provide factual and technical grounds establishing that each inherent feature necessarily flows from the teachings of the prior art. See *Ex parte Levy*, 17 U.S.P.Q.2d, 1461, 1464 (Bd. Pat. App. & Int. 1990). See also MPEP 2131.01(III) (The evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and it would be so recognized by persons of ordinary skill (*Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991))).

The Examiner has not shown that each claim feature of Applicants' invention is expressly or inherently disclosed in the '379 patent. The Examiner has not shown that the homogeneous ethylene/alpha-olefin polymer, as claimed in Claim 1 or Claim 7, and all additional features of such claims are each disclosed in the '379 patent, or necessarily flow from the '379 patent. The Examiner has not shown that the homogeneous ethylene/alpha-olefin polymer, as claimed in Claim 13 or Claim 19, and all additional features of such claims, are each disclosed in the '379 patent, or necessarily flow from the '379 patent.

Therefore, for at least these reasons, the '379 patent, alone, or as evidenced by the '491 patent, does not anticipate the invention as claimed. Applicants request the withdrawal of this rejection.

The Examiner rejected Claims 6 and 18, under 35 U.S.C. § 102(b), as anticipated by the '379 patent, alone, or as further evidence by the '491 patent and Wittcoff et al., *Industrial Organic Chemical*, 2<sup>nd</sup> edition, 2004, 662 (hereinafter the Wittcoff reference). Applicants respectfully traverse for the following reasons.

The Examiner has not shown that each claim feature of Applicants' invention is expressly or inherently disclosed in the '379 patent. The Examiner has not shown that the homogeneous ethylene/alpha-olefin polymer, as claimed in Claim 6, and all additional features of such claim, are each disclosed in the '379 patent, or necessarily flow from the '379 patent. The Examiner has not shown that the homogeneous ethylene/alpha-olefin polymer, as claimed in Claim 18, and all additional features of such claim, are each disclosed in the '379 patent, or necessarily flow from the '379 patent.

Therefore, for at least these reasons, the '379 patent, alone, or as evidenced by the '491 patent and the Wittcoff reference, does not anticipate the invention as claimed. Applicants request the withdrawal of this rejection.

Applicants respectfully submit that the present amendment is now in condition for allowance. If further issues remain, Applicants respectfully request that the Examiner call Applicants' undersigned representative.

Respectfully submitted,

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